

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

MASS ENGINEERED DESIGN, INC.,	§	
	§	
Plaintiff,	§	Civil Action No. 6:14-cv-00411-LED
	§	
v.	§	<b><u>LEAD CASE</u></b>
	§	
SPACECO BUSINESS SOLUTIONS, INC.,	§	
	§	
Defendant.	§	
<hr/>		
v.	§	
	§	
PLANAR SYSTEMS, INC.,	§	Civil Action No. 6:14-cv-00414-LED
	§	
Defendant.	§	

**DOCKET CONTROL ORDER**

It is hereby **ORDERED** that the following schedule of deadlines is in effect until further order of this Court:

<b>3 DAYS after conclusion of Trial</b>  <b>Trial Date</b> <b>May 23, 2016</b>  Court designated date – not flexible without good cause - Motion Required	Parties to File <b>Motion to Seal Trial Exhibits</b> , if they wish to seal any highly confidential exhibits.  <b>EXHIBITS: See order below regarding exhibits.</b>
<b>May 16, 2016</b>  Court designated date – not flexible without good cause - Motion Required	<b>9:00 a.m. JURY TRIAL before Judge Robert W. Schroeder, III, United States District Court, 211 W. Ferguson, 3<sup>rd</sup> Floor, Tyler, Texas.</b>
<b>April 14, 2016</b>  Court designated date – not flexible without good cause - Motion Required	<b>9:00 a.m. JURY SELECTION before Judge Robert W. Schroeder, III, United States District Court, 211 W. Ferguson, 3<sup>rd</sup> Floor, Tyler, Texas.</b>
	<b>9:00 a.m. PRETRIAL CONFERENCE before Judge K. Nicole Mitchell, United States District Court, 211 W. Ferguson St., Rm. 353, Tyler, Texas.</b>  All pending motions will be heard.

March 22, 2016	Parties to file estimates of the amount of time they request at jury selection and trial for (1) voir dire, (2) opening statements, (3) direct and cross examinations, and (4) closing arguments.
March 17, 2016	Responses to Motions in Limine due.
March 14, 2016	<b>Motions in Limine due.</b> The parties are directed to confer and advise the Court on or before 3:00 o'clock p.m. the day before the pre-trial conference which paragraphs are agreed to and those that need to be addressed at the pre-trial conference.
March 9, 2016	<b>Joint Pretrial Order, Joint Proposed Jury Instructions with citation to authority and Form of the Verdict for jury trials due.</b> Proposed Findings of Fact and Conclusions of Law with citation to authority for issues tried to the bench.
March 4, 2016	<b>Pretrial Objections due.</b>
February 28, 2016	<b>Objections to Rebuttal Deposition Testimony due.</b>
February 18, 2016	<b>Rebuttal Designations and Objections to Deposition Testimony due.</b> Cross examination line and page numbers to be included. In video depositions, each party is responsible for preparation of the final edited video in accordance with their parties' designations and the Court's rulings on objections.
January 29, 2016	<b>Pretrial Disclosures due.</b> Video and Stenographic Deposition Designation due. Each party who proposes to offer deposition testimony shall file a disclosure identifying the line and page numbers to be offered.  Notice of Request for Daily Transcript or Real Time Reporting of Court Proceedings due. If a daily transcript or real time reporting of court proceedings is requested for trial or hearings, the party or parties making said request shall file a notice with the Court and email the Court Reporter, Shea Sloan, at <a href="mailto:shea_sloan@txed.uscourts.gov">shea_sloan@txed.uscourts.gov</a> .
January 5, 2015	<b>Response to Dispositive Motions (including <i>Daubert</i> motions) due.</b> Responses to dispositive motions filed prior to the dispositive motion deadline, including <i>Daubert</i> motions, shall be due in accordance with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances.</u>
<b>December 4, 2015</b> Court designated date – not flexible without good cause – Motion Required	<b>Dispositive Motions due from all parties and any other motions that may require a hearing (including <i>Daubert</i> motions) due.</b> Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances.</u>
December 1, 2015	<b>Parties to Identify Rebuttal Trial Witnesses.</b>

November 20, 2015	<b>Parties to Identify Trial Witnesses; Amend Pleadings</b> (after <i>Markman</i> Hearing). It is not necessary to file a Motion for Leave to Amend before the deadline to amend pleadings. It is necessary to file a Motion for Leave to Amend after the deadline. However, except as provided in Patent Rule 3-6, if the amendment would affect infringement contentions or invalidity contentions, a motion must be made pursuant to Patent Rule 3-6 irrespective of whether the amendment is made prior to this deadline.
November 6, 2015	<b>Discovery Deadline.</b>
October 28, 2015	Parties designate rebuttal expert witnesses (non-construction issues), Rebuttal expert witness reports due. Refer to Local Rules for required information.
October 5, 2015	<b>Deadline to File Letter Briefs for Summary Judgment Motions and Daubert Motions.</b> See the Court's website for further information.
September 28, 2015	Parties with burden of proof designate expert witnesses (non-construction issues). Expert witness reports due. Refer to Local Rules for required information.  <b>Final Election of Asserted Prior Art.</b>
August 31, 2015	<b>Final Election of Asserted Claims.</b>
August 28, 2015	Comply with P.R.3-7 - Furnishing documents and privilege logs pertaining to willful infringement.
6 court days per trial against each Defendant	<b>EXPECTED LENGTH OF TRIAL</b>

In the event that any of these dates fall on a weekend or Court holiday, the deadline is modified to be the next Court business day.

The parties are directed to Local Rule CV-7(d), which provides in part that “[i]n the event a party fails to oppose a motion in the manner prescribed herein the Court will assume that the party has no opposition.” Local Rule CV-7(e) provides that a party opposing a motion has 15 days in which to serve and file supporting documents and briefs after which the Court will consider the submitted motion for decision.

#### **OTHER LIMITATIONS**

- (a) All depositions to be read into evidence as part of the parties' case-in-chief shall be EDITED so as to exclude all unnecessary, repetitious, and irrelevant testimony; ONLY those portions which are relevant to the issues in controversy shall be read into evidence.
- (b) The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:
  - (i) The fact that there are motions for summary judgment or motions to dismiss pending;
  - (ii) The fact that one or more of the attorneys is set for trial in another court on the

- same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
- (iii) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.

**ORDER REGARDING EXHIBITS, EXHIBIT LISTS AND WITNESS LISTS:**

A. ON FIRST DAY OF TRIAL, each party is required to have on hand the following:

- (1) One (1) copy of their respective original exhibits. Each exhibit shall be properly labeled with the following information: Identified as either Plaintiff's or Defendant's Exhibit, the Exhibit Number and the Case Number. In addition, exhibits shall be placed in properly marked manila folders and contained in a box with handles. (Do not tender to the Court until instructed).
- (2) Three (3) hard copies of their exhibit list and witness list. These lists shall be tendered to the Courtroom Administrator at the beginning of trial.
- (3) One (1) copy of all exhibits on disk(s), USB Flash Drive(s), or portable hard drive(s). This shall be tendered to the Courtroom Administrator at the beginning of trial.

B. EXHIBIT LISTS DURING TRIAL:

- (1) On the first day of trial, each party should be prepared to offer en masse, exhibits NOT objected to by opposing party and tender to the Court a list of said exhibits. Parties are directed to entitle the list, "Plaintiff's / Defendant's Exhibits Admitted on (DATE)." This list will be marked as Plaintiff's / Defendant's Exhibit List 1.
- (2) On the second day of trial and daily thereafter, parties shall offer any additional exhibits not objected to by opposing party and tender to the Court a list of said exhibits. This list should be entitled "Plaintiff's / Defendant's Exhibits Admitted on (DATE)", and will be marked as Plaintiff's / Defendant Exhibit List 2, and so on until the conclusion of trial.
- (3) On the last day of trial, the parties shall tender to the Court three (3) copies of a cumulative list entitled, "Plaintiff's / Defendant's Final List of All Admitted Exhibits."
- (4) ALL ADMITTED EXHIBITS WILL BECOME PART OF THE RECORD AND WILL GO TO THE JURY.

- (5) The Court urges the parties to meet and confer on a daily basis during trial regarding admission of exhibits, so as not to delay the trial proceedings.
- C. At the conclusion of the evidentiary phase of trial, each party is to gather only those exhibits admitted during trial and tender those to the Courtroom Administrator, along with a copy of their final list of exhibits including the description of exhibits for the Jury's use. The Courtroom Administrator shall verify the exhibits and final lists and tender to the jury for their deliberations.
- D. At the conclusion of trial, all boxes of exhibits shall be returned to the respective parties and the parties are instructed to remove these exhibits from the courtroom.
- E. **SEALED EXHIBITS:** Within three (3) days of the conclusion of trial, parties to file a Motion to Seal Trial Exhibits, if they have highly confidential exhibits.
- F. **SUBMISSION OF FINAL LISTS AND EXHIBITS:** Within seven (7) business days of the conclusion of trial or after entry of Order regarding Motion to Seal Trial Exhibits (if any), each party shall submit to the Court (to Chambers):
- (1) A hard copy of Final Exhibit List of Exhibits Admitted During Trial, listing only the exhibits admitted at trial and making a notation of any sealed exhibit. In addition parties shall provide the Court a disk containing this document in WordPerfect or Word format. For Example: Plaintiff will tender a list entitled, "Plaintiff's Final Exhibit List of Exhibits Admitted During Trial."
  - (2) Two (2) separate copies of all sealed trial exhibits in PDF format on disk(s) or thumb drive(s); and, two separate copies of all other trial exhibits in PDF format on disk(s) or thumb drive(s). If tangible or over-sized exhibits were admitted, such exhibits shall be substituted with a photograph to be converted to a PDF file and shall be included in the Court's disk(s) of admitted exhibits.
  - (3) Two (2) separate copies of transcripts of Video Depositions played during trial, along with a copy of the actual video deposition on disk(s) or thumb
- G. **FILING AND STORAGE OF EXHIBITS:** After receipt of final exhibit lists and exhibits, the Courtroom Administrator shall file and docket the parties' respective lists, and the trial exhibits shall be stored in the Clerk's Office, Tyler Division. Sealed Exhibits will be stored in the Clerk's

Office Vault.

- H. QUESTIONS REGARDING EXHIBITS: All questions regarding exhibits, lists, and procedures shall be directed to Rosa Ferguson, Court Administrator via email: [rosa\\_ferguson@txed.uscourts.gov](mailto:rosa_ferguson@txed.uscourts.gov)